

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

PML NORTH AMERICA, LLC,

Plaintiff,

v.

Case No. 05-CV-70404-DT

Hon. Robert H. Cleland

HARTFORD UNDERWRITERS
INSURANCE COMPANY, ACG
ENTERPRISES OF NC, INC. and
RTP INSURANCE OF DURHAM, NC,

Defendants.

BUTZEL LONG

James J. Giszczak (P46917)
Michael G. Latiff (P51263)
Katherine Donohue Goudie (P62806)
150 West Jefferson, Suite 100
Detroit, MI 48226-4450
(313) 225-7000
Attorneys for Plaintiff

Keith Bishop, Esq. (N.C. Bar No. 18918)
Madison Center, Suite 105
1802 Martin Luther king, Jr. Parkway
Durham, North Carolina 27707
(919) 490-1855
Attorney for Defendant ACG Enterprises of
NC, Inc.

DYKEMA GOSSETT PLLC

Thomas J. Murray (P56331)
39577 Woodward Avenue, Suite 300
Bloomfield Hills, MI 48304-5086
(248) 203-0806
Attorney for Defendant Hartford
Underwriters Insurance Company

John Edward Gilchrist, pro se
3325 Chapel Hill Blvd., Suite 145
Durham, NC 27707
(919) 401-6556
Defendant RTP Insurance of Durham, NC

**PLAINTIFF PML NORTH AMERICA, LLC'S
CROSS-MOTION TO CONDUCT DISCOVERY**

Pursuant to Rule 56(f) of the Federal Rules of Civil Procedure, Plaintiff PML North America, LLC (“PML”) respectfully requests that this Court enter an Order allowing PML to conduct discovery. Defendant Hartford Underwriters Insurance Company (“Hartford”) filed a Motion to Dismiss or, in the Alternative, Motion for Summary Judgment before the Rule 26(f) scheduling conference, the exchange of initial disclosures, and the commencement of discovery. In support of its Motion, Hartford attached affidavits of its employees and other evidence outside of the pleadings. Hartford’s Motion is clearly premature.

Therefore, pursuant to Federal Rule of Civil Procedure 56(f), PML should have an opportunity to conduct discovery. (*See* Latiff Affidavit attached to the Supporting Brief as Exhibit A thereto.) Support for this Motion is set forth more fully in PML North America, LLC’s Brief in Support of Cross-Motion to Conduct Discovery and in Opposition to Defendant Hartford Underwriters Insurance Company’s Motion to Dismiss or, in the Alternative, Motion for Summary Judgment, and the Rule 56(f) affidavit describing the need for discovery.

Pursuant to Eastern District Local Rule 7.1, concurrence in this Motion was sought from Hartford’s counsel on July 1, 2005, and was not received thereby necessitating the filing of this Motion.

WHEREFORE, for the reasons fully discussed in the supporting Brief filed contemporaneously herewith, Plaintiff PML North America, LLC respectfully requests that this Court grant its Cross-Motion to Conduct Discovery pursuant to Rule 56(f) of the Federal Rules of Civil Procedure, and deny Hartford's Motion to Dismiss or, in the Alternative, Motion for Summary Judgment.

Respectfully submitted,

BUTZEL LONG

By: /s/ Michael G. Latiff

James J. Giszczak (P46917)

Michael G. Latiff (P51263)

150 West Jefferson, Suite 100

Detroit, MI 48226-4450

(313) 225-7000

E-mail: giszczak@butzel.com

latiff@butzel.com

Attorneys for Plaintiff

Dated: July 1, 2005

BUTZEL LONG, A PROFESSIONAL CORPORATION, ATTORNEYS AND COUNSELORS